

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
November 18, 2003**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Forman, Conze and Kenny

STAFF ATTENDING: Ginsberg, Keating

Chairman Damanti read the following agenda item:

Election of Officers (Chairman, Vice-Chairman, Secretary, SWRPA Representative)

Mr. Damanti opened the floor for nominations for Chairman. Fred Conze nominated Patrick Damanti as Chairman and Mr. Kenny seconded the nomination. There were no other nominations for Chairman. The Commission unanimously elected Mr. Damanti to serve as Chairman in 2004.

Chairman Damanti opened the floor for nominations for Vice Chairman. Fred Conze was nominated for Vice Chairman by David Kenny. Mrs. Forman seconded the nomination. There were no other nominations for Vice Chairman. The Commission unanimously elected Mr. Conze to serve as Vice Chairman in 2004.

Chairman Damanti opened the floor for nominations for Secretary. Joseph Spain was nominated for Secretary by Ursula Forman and seconded by Mr. Conze. There were no other nominations for Secretary. Mr. Spain was unanimously elected to serve as Secretary in 2004.

Chairman Damanti opened the floor for nominations for Representative to serve at the Southwestern Regional Planning Agency (SWRPA). Mr. Kenny was nominated by Mrs. Forman and the nomination was seconded by Mr. Conze. There were no other nominations. Mr. Kenny was unanimously elected to serve as a Representative to the Southwestern Regional Planning Agency.

Adoption of Year 2004 meeting schedule

Chairman Damanti asked if there was a motion to approve the Schedule of Meetings for 2004. The motion was made by Mr. Conze, seconded by Mr. Spain. The Commission unanimously adopted the proposed Schedule of Meetings for 2004.

Chairman Damanti read the following agenda item.

Business Site Plan #90-K, Pear Partners, LLC, 1077 Boston Post Road. Proposing to renovate and to construct additions and alterations to the existing building and perform related site development activities. The subject properties are on the northwest side of Boston Post Road, approximately 550 feet northeast of its intersection with Leroy Avenue, and is shown on Tax Assessor's Map #73, as Lots #7 and #42 in the CBD Zone, with shared parking on Lots #40 and #41 in the CBD and PR Zones.

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Mrs. Forman and Mr. Spain read the draft Resolution aloud. The Commission members discussed various aspects of the draft Resolution including weekend and evening hours for the operation of the theatre, the marquee along the Boston Post Road being used for movie theatre information only and not as a general sign for the other tenants in the building, addressing the parking issues raised by various people at the public hearing and what might happen if the movie theatre use is discontinued. Commission members noted that the License from the Board of Selectmen to use municipal parking at peak times is contingent on the continued operation of the movie theatre. The Commission also noted that the terms of the private shared parking agreements would appear to be contingent upon the continued operation of the theatre. As the Commission discussed the various aspects of the draft Resolution, it was noted that numerous changes must be incorporated. Mr. Ginsberg said that another meeting would be held on November 25th and that the Commission could take action on a revised draft at that time. The Commission decided to have the draft revised so that action can be finalized at the November 25th meeting.

Chairman Damanti read the following agenda item:

Special Permit Application #22-N, Coastal Site Plan Review #27-C, Flood Damage Prevention Application #20-C, Tokeneke Club, 4 Tokeneke Beach Drive. Proposing to modify and construct improvements to the existing clubhouse and perform related site development activities within regulated areas. The subject property is on the south side of Butler's Island Road south and east of its intersection with Tokeneke Beach Drive, and is shown on Tax Assessor's Map #67, as Lot #83 in the R-1 Zone.

Mr. Conze and Mr. Spain explained that they are members of the Club and will not be participating in the discussion or decision making aspects of this application. Mr. Conze left the room. Mr. Spain remained in the room so that the Commission would still have a quorum.

The following motion was made: that since each member of the Commission had received a draft of the Resolution prior to the meeting, the Commission would waive the process of reading the entire draft out loud. The motion was made by Mr. Kenny and seconded by Mrs. Forman. Voting in favor of the motion were Messrs. Kenny and Damanti and Mrs. Forman. Mr. Spain did not vote on the matter. The motion to waive the reading passed by a vote of 3 to 0 to 1. After a brief discussion about the draft Resolution, the following motion was made: that the Commission adopt the following Resolution to approve the application:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
November 18, 2003**

Application Number: Special Permit Application #22-N
Coastal Site Plan Review #27-C
Flood Damage Prevention Application #20-C

Street Address: 4 Tokeneke Beach Drive

Tax Assessor's Map #67 Lot #83

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Name and Address of
Property Owner: Tokeneke Club, Inc.
4 Tokeneke Beach Drive
Darien, CT 06820

Name and Address of Applicant: Wilder G. Gleason, Esq.
And Applicant's Representative: Gleason Hill & Ambrette, LLC
23 Old Kings Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to modify and construct improvements to the existing clubhouse and perform related site development activities within regulated areas.

Property Location: The subject property is on the south side of Butler's Island Road south and east of its intersection with Tokeneke Beach Drive.

Zone: R-1

Date of Public Hearing: October 28, 2003

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: October 16 & 23, 2003

Newspaper: Darien News-Review

Date of Action: November 18, 2003

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
November 26, 2003

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 850 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application includes proposals to modify and construct improvements to the existing clubhouse and perform related site development activities within regulated areas. There are no

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changes proposed to the general uses or activities of the club or the number of club members, which is now 315, with 20 non-resident members.

2. The Zoning Board of Appeals (ZBA) granted Calendar 75-2003 on October 15, 2003 for this project. That approval is hereby incorporated by reference. The tennis court practice area was relocated as part of the ZBA approval. A total of 387 new square feet of building coverage was approved by the ZBA.
3. All existing mechanical utility type equipment within the clubhouse building and all new mechanical equipment, including but not limited to the new elevator equipment, will be elevated to be at or above flood height. The passenger compartment of the proposed elevator as been designed to be "at rest" on the second floor of the Club.
4. The Architectural Review Board (ARB) approved this project on April 22, 2003.
5. At the public hearing, several neighbors expressed concerns about the adequacy of on-site parking and the practice of club attendees parking on the adjacent narrow streets, thus creating safety concerns due to potential hindrance of emergency vehicle access through the area. The Commission finds that the enforcement of the on street parking restrictions within this private neighborhood and on these private streets is an issue to be dealt with by the private homeowners association and the police. The proposed additions and alterations to the facilities are minor changes to achieve code compliance and correct existing deficiencies. No new gathering spaces or dining rooms or other facilities to increase occupancy or parking demands are being proposed by this application. The Tokeneke Club does have a responsibility to schedule events, limit occupancy and utilization of its facilities and take other steps as necessary to make sure that the on-site parking is sufficient to meet the demand for parking related to activities at the club during all but the rare occasions (such as holiday fireworks, season opening and closing celebrations and similar special events) when on street parking may be needed if it is allowed by the police.
6. Another concern expressed at the public hearing was the perceived change of character of the club from a situation where most of the members were residents of the surrounding, private Tokeneke neighborhood, to the current situation of the majority of members being from neighborhoods other than Tokeneke. The Commission will not try to regulate the Tokeneke Club with respect to the location of the residence of the members. It may be true that more traffic through the adjacent streets is generated by club members from other neighborhoods, and it may also be true that the drivers from other neighborhoods are not as conscientious of the stop signs and speed limits, but the movement of vehicles through the private neighborhood is something for the private homeowners association and the police to handle as they deem necessary. The proposed improvements to the existing Clubhouse and relocation of a tennis court practice area will not impact traffic movement in the streets.
7. The property boundary line adjacent to the waters of Long Island Sound at the southern portion of the site is illustrated using sea level as established in 1929 (NGVD 29) versus using the more recently updated, and slightly higher, sea level as established in 1988. This has already been accounted for by the fact that the Darien Zoning Regulations were amended years ago to reflect that mean high water (MHW) was changed from elevation 3.65 feet above sea level (NGVD

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29), to now be the latest MHW line as established by the National Oceanic and Atmospheric Administration (NOAA) and the current practice is to use 4.2 feet above sea level (NGVD 29) as the current location of mean high water. This is what is reflected on the submitted plans. The Commission notes that the mean high water line of a beach area, such as is found at the Tokeneke Club, is constantly changing, and will vary from season to season and year to year.

8. The Commission notes that in a letter dated May 19, 2003, Vince Proto of the Darien Health Department has indicated, "As currently designed, the kitchen, receiving, storage, snack and bar areas do not meet minimal standards..." "The local authority (Health Dept.) considers this renovation an important and essential step in bringing the facility into compliance with Section 19-13B42 of the Connecticut Public Health Code." The Commission defers to his expert opinion.
9. At the Public Hearing, the Tokeneke Club manager noted that there are two septic systems on the premises, which are each pumped about once every six months.
10. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
11. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
12. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
13. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
14. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
15. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
16. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
17. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #22-N, Coastal Site Plan Review #27-C, and Flood Damage Prevention Application #20-C are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

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1. Construction of improvements to the Clubhouse shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Zoning Location Survey prepared for Tokeneke Beach Club, Inc., Butler's Island Road, scale 1"=40', by William W. Seymour & Associates, dated February 21, 2003 and last revised May 15, 2003.
 - Tokeneke Club by Beinfield Wagner Architects, last revised 05-14-03, Drawing No. A-101 (Ground Floor Plan), A-102 (Second Floor Plan), A-201 (Elevations).
2. As noted by the applicant at the public hearing, there will be no change in the existing membership or intensification of use as a result of this application. The Tokeneke Club does have a responsibility to schedule events, limit occupancy and utilization of its facilities and take other steps as necessary to ensure that the on site parking is sufficient to meet the demand for parking related to activities at the club during all but the rare occasions (such as holiday fireworks, season opening and closing celebrations and similar special events) when on-street parking may be needed if it is allowed by the police.
3. There was some discussion of the septic systems at the public hearing. The Commission hereby requires that those septic systems be pumped at least once every six months, or as directed by the Health Department, or as needed.
4. All sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
5. Prior to the request for the Zoning Permit for the construction, the applicant or owner shall submit certification from a licensed architect or professional engineer that the foundation structures have been designed to withstand all flood forces and comply with the flood damage prevention requirements for structural stability.
6. When the construction is nearing completion, written certification shall be provided from a registered Professional Architect or Professional Engineer that the construction, relocation of mechanical equipment, and flood proofing has been completed in conformance with this permit and the Zoning Regulations. This certification shall be provided to the Planning and Zoning Department prior to the issuance of a Certificate of Occupancy, per Section 829e of the Darien Zoning Regulations.
7. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Health Department.
8. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.

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9. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (November 17, 2004). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan as approved shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records to finalize this approval.

The motion was made by Mr. Kenny and seconded by Mrs. Forman. Voting in favor of the motion were Messers. Kenny and Damanti and Mrs. Forman. Mr. Spain did not participate or vote. The motion was passed by a vote of 3 to 0 to 1.

Chairman Damanti read the following agenda item:

Coastal Site Plan Review #53-F, Flood Damage Prevention Application #43-F, Ann B. Lunn, 8 Contentment Island Road. Proposing to modify plans for the previously approved, but never constructed single-family residence and perform related site development activities within regulated areas. The subject property is located on the west side of Contentment Island Road approximately 439 feet south of its intersection with Tokeneke Beach Drive and is shown on Tax Assessor's Map #67 as Lot #63, R-1 Zone.

Mr. Ginsberg explained that the application had been withdrawn and therefore no action was necessary by the Commission.

Mr. Conze returned to the meeting.

Chairman Damanti read the following agenda item:

Request per Business Site Plan #145-B/Special Permit, Norwalk Hospital, 40 Heights Road. Request to expand the existing Norwalk Hospital tenant space by 1,000 +/- square feet into the existing second floor space now occupied by Joint Communications. This is a review of a new tenant for 40 Heights Road, as specifically required by Business Site Plan #145-B/Special Permit (Equinox Fitness Center).

The Commission members reviewed the letter from Mr. Golden regarding the proposed tenancy within the building. All members noted that there is no parking problem and they did not anticipate a parking problem due to the change. The following motion was made: that the Commission approve the request to change the tenant and allow the Norwalk Hospital tenant to occupy an additional 1,000 +/- square feet of the existing office space in the building. The motion was made by Mr. Kenny, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

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Special Permit Application #221-B, Sprint Spectrum, LP, 4 Tower Drive. Request for extension of temporary Certificate of Compliance for telecommunications antenna until May 31, 2004.

Commission members reviewed the letter from Attorney Laura McGeachy and noted that the weather conditions do not allow the proper painting of the tower at this time. It was noted that the entire tower is not to be painted, but the area where the exterior changes have been made needs to be painted so that it will be better blended with the rest of the tower. That work is likely to take place in the Spring of 2004. The following motion was made: that the Commission approve the request for an extension of the temporary Certificate of Zoning Compliance until the Spring of 2004. The motion was made by Mr. Spain, seconded by Mrs. Forman and unanimously approved.

Chairman Damanti read the following agenda item:

Discussion of 2005 Town Plan of Conservation & Development

Discussion regarding a draft of the Traffic & Transportation Chapter. A brief presentation will be made by a representative from URS Greiner, Inc., the consultant who is assisting the Commission with this Chapter.

Also in attendance were: (former First Selectman) Robert Harrel, current member of the Board of Selectmen and Parking Authority; Howard Mirsky, Traffic Consultant to the Planning & Zoning Commission; Susan Cameron; and Dot Kelly. Numerous aspects of the Traffic and Circulation Chapter were discussed. Mr. Mirsky explained that subsequent to the previous draft, he had added several sections like the Journey to Work and several concept plans for areas like Heights Road and Hollow Tree Ridge Road. He said that they have also conducted parking studies in the downtown area on weekdays and weekends. Commission members explained that there is much concern about traffic impacts due to development activities in Norwalk along the Boston Post Road. Another concern was that the companies located in South Norwalk use Tokeneke Road (State Route 136) to get to Exit 12 of the Turnpike rather than getting on the Turnpike at Exit 14. This causes additional traffic in Darien. The Boston Post Road and Corbin Drive intersection was discussed. There was some discussion about the possibility of converting Corbin Drive and/or Center Street to one way streets. Mr. Mirsky will look into this matter.

There were no motions made and no actions taken in the discussions regarding the Town Plan of Conservation & Development.

There being no further business, the meeting was adjourned at 10:50 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning